

**VIRGINIA BOARD OF DENTISTRY
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE
MARCH 10, 2011**

TIME AND PLACE: The meeting of the Regulatory/Legislative Committee of the Board of Dentistry was called to order at 1:00 p.m. on March 10, 2011 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Herbert R. Boyd., D.D.S., Chair

MEMBERS PRESENT: Meera A. Gokli, D.D.S.
Robert B. Hall, Jr., D.D.S.
Jacqueline G. Pace, R.D.H.

MEMBER ABSENT: None

OTHER BOARD MEMBER PRESENT: Martha Cutright, D.D.S.
Myra Howard, Citizen Member
Misty Mesimer, R.D.H.
Augustus A. Petticolas, Jr., D.D.S.
Paul N. Zimmet, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Alan Heaberlin, Deputy Executive Director
Huong Vu, Administrative Assistant

OTHERS PRESENT: Howard M. Casway, Senior Assistant Attorney General
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

ESTABLISHMENT OF A QUORUM: With all members of the Committee present, a quorum was established.

PUBLIC COMMENT: **Kimberly Sillaway**, spoke on behalf of Virginia Society of Oral Maxillofacial Surgeons (VSOMS) stating that VSOMS thanks the Committee for its hard work and supports the March 10, 2011 dentistry regulations discussion draft.

Ms. Reen noted that the two items listed in the agenda from page 1 to page 28 are provided for information only. She added that she did receive 13 comments from oral and maxillofacial surgeons, VSOMS and the American Association of Oral and Maxillofacial Surgeons expressing opposition to the Virginia Association of Nurse Anesthetists' (VANA) proposed amendments to the dentistry chapter discussion draft. She let the commenters know that the regulations are not in a public comment period and added them to the public notice list.

MINUTES: Dr. Boyd asked if the members had reviewed the minutes of the February 10, 2011 meeting. Dr. Hall moved to accept the minutes. The motion was seconded and passed.

REPORT ON LEGISLATION

RELATED TO DENTISTRY: Ms. Yeatts reported the following:
HB1642 (Dental school faculty; licensure) – was passed by the House.
The bill was withdrawn at the Senate
HB1146 (Dentist; sedation and anesthesia permits) – was passed by both houses. The Governor has not signed it yet. Once the Governor signs it, it will become effective within 280 days. Ms. Yeatts suggested that the Board needs to adopt the regs by September business meeting. Ms. Reen added that she has asked Rose Dematteo, Board staff, to research other state board's information on this already.
SB 1014 (Dental hygienists; extension of educational and preventive protocol) – was passed by both houses.

STATUS REPORT ON

REGULATORY ACTIONS: **Periodic Review; Reorganization of Chapter** - Ms. Yeatts reported that it is in the working stage.

Recovery of Disciplinary Costs – Ms. Yeatts reported that the comment period was closed on March 4, 2011 and two comments were received. One recommended that the Board address compensation of licensees where no action is taken and the other expressed concern about abuse of this authority.

Registration of Mobile Clinics – Ms. Yeatts reported that the comment period closed on March 4, 2011 and no comment was received.

Registration and Practice of Dental Assistants – Ms. Yeatts reported that these regulations are in effect as of March 2, 2011.

PERIODIC REVIEW OF REGULATIONS:

Second Review Draft of Dental Practice Chapter – Ms. Reen noted that she asked Mr. Heaberlin and APD staff to review the proposed discussion draft and make recommendations. She added that the recommendations are provided on blue paper for review. She proposed that the Committee to go through the discussion draft page by page and encouraged all the board members to think critically and to ask questions about any part of the regulations. She advised that any substantive change requiring research should be identified today and that the Committee should not consider further substantive changes after this meeting so that these regulations can be moved to the next stage of the process. Dr. Boyd and Ms. Reen then led the discussion as follows:

Page 2

"Dental assistant I " – replace "*a secretarial or clerical capacity*" with "***an administrative, secretarial or clerical capacity***"

"Dental assistant II" – add "***by the board***" in front of "*to perform reversible*"

Page 3

Add a definition of "immediate supervision"

"Radiographs" – replace "*x-rays and radiographic digital images*" with "***radiographic images***"

18VAC60-21-20 – add “**and correspondence**” in front of “*mailed by the board to any such licensee*”

Page 5

18VAC60-21-50 – Dr. Hall moved to strike the bona fide dentist and patient relationship language in green. The motion was seconded and passed. Add B section to reference the requirements of §54.-3303 in the Drug Control Act on the bona fide relationship for writing prescriptions

18VAC60-21-60 – delete “to patients” from the title.

18VAC60-21-60.A – in the second line add “**and the public**” after “*welfare of this patients*”

Page 6

18VAC60-21-60.A – move items 5 and 6 under 1. Maintaining a safe and sanitary practice

18VAC60-21-60.A.7 – add “**written**” in front of “*notice of a decision*”

18VAC60-21-60.A - add item 10 to be written as “**Cooperate with any investigation for the board which is being conducted by an employee of the Department of Health Professions**”

18VAC60-21-60.B – Ms. Reen noted that this section was inadvertently left out in the February 10, 2011 discussion draft. She asked that the Committee to review this new language in detail.

18VAC60-21-60.B.1 – add “**or judgment**” after “*the professional competence*” and “**licensed**” in front of “*dentist or dental hygienist*”

18VAC60-20-XXX – rename to “**Professional Boundaries**”

Page 7

18VAC60-21-XXX – delete sections A through D. Make sections E and F the new sections A and B and have staff develop a new section C on unwanted, non-consensual sexual contact

18VAC60-21-70.A – add “**and accurate**” after “*maintain complete, legible*”

Page 8

18VAC60-21-70. B – add item 9 written as “**A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-21-120.F**”

18VAC60-21-70.B – add item 10 written as “**The information required for the administration of moderate sedation, deep sedation and general anesthesia required in 18VAC60-21-240.C**”

18VAC60-21-70.G – add “**by the board**” after “*someone who is not licensed*”

18VAC60-21-80 – written as “**The treating dentist shall submit a written report to the board within 15 calendar days following an unexpected patient traumatic event which (i) occurred intra-operatively or during the first 72 hours immediately following the patient’s departure from his facility and (ii) either resulted in physical injury necessitating a patient admission to a hospital or (iii) resulted in patient death**”

Page 9

18VAC60-21-90.C – written as “**Discounts and free offers. Discount and free offers for a dental service are permissible for advertising**”

only when the non-discounted or full fee and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer"

18VAC60-21-90.D – change "six-month" to **"twelve-month"**

18VAC60-21-90.E – replace "which is hereby adopted and incorporated by reference" with **"or such code as subsequently amended"**

18VAC60-21-90.F – combine item 1 and 2 into a new item 1 and written as **"Publishing an advertisement which contains a material misrepresentation or omission of facts that causes an ordinary prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive"**

18VAC60-21-90.F – change old item 4 to new item 3 and add **"false"** in front of "claim of professional superiority"

18VAC60-21-90.F – change old item 5 to new item 4 and written as **"A general dentist who does not hold current specialty certification shall not represent that his practice is limited to providing services in a specialty area without clearly disclosing in the representation that he is a general dentist"**

Page 10

18VAC60-21-100.D – add **"that is"** in front of "to be inserted into a patient's mouth"

18VAC60-21-120.A – add after "responsibility for determining" **"with the patient or his representative"**

"18VAC60-21-120.C – replace §54.1-7722 with **"§54.1-2722"**

Page 11

18VAC60-21-120.F.3 – replace "a responsible adult" with **"his representative"** and add **"his arrival for"** after "informed prior to"

18VAC60-21-130.A.1 – replace "non-surgical lasers" with **"athermal lasers"**

18VAC60-21-130.B – replace "§54.-3408" with **"§§54.1-3408.J and 54.1-2722.D"**

18VAC60-21-130.B.1 – replace "non-surgical lasers" with **"athermal lasers"**

Page 12

18VAC60-21-160 – delete (iii) section

18VAC60-21-170.2 – add **"presenting complaint"** after "blood pressure, temperature"

Page 13

18VAC60-21-180.E – add **"§54.1-111"** of the Code

Page 14

18VAC60-21-XXXX.A.1 – replace "can not" with **"cannot"**

Page 15

18VAC60-21-XXXX.B.1 – replace "can not" with **"cannot"**

18VAC60-21-XXXX.C.1 and C.2 – replace "can not" with **"cannot"**

Page 20

Part VI – replace “*Drugs*” with “***Substances***” throughout

18VAC60-21-240.C – add “***In addition to the record requirements of 18VAC60-21-70***” at the beginning of the first sentence

18VAC60-21-240.C – add a new #4 to read as “***pre-operative vital signs***”

18VAC60-21-240.C.5 – written as “***Monitoring records of all required vital signs and physiological measures recorded every five minutes; and***”

Page 21

E. Pediatric patients – written as “***No sedating medication shall be prescribed for or administered to a child aged 12 and under prior to his arrival at the dental office or treatment facility***”

Page 23

18VAC60-21-250.C – written as “***A certified registered nurse anesthetist under his medical direction and supervision***”

18VAC60-21-250.E, F and G – replace “*under his direction*” with “***under his indirect supervision***”

18VAC60-21-260.B1 – staff to add new B.1 to address an unqualified dentist

18VAC60-21-260.B2 – old B1 language

18VAC60-21-260.B2c (old B1c) – written as “***A certified registered nurse anesthetist under his medical direction and supervision***”

18VAC60-21-260.B2d (old B1d) – add “***; and***” to the end of the sentence

18VAC60-21-260.B2e – add this new section to be written as “***A registered nurse upon his direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-270(B)(1)***”

18VAC60-21-260.B4 (old B3) – staff will reword language to include children and driver

Page 24

18VAC60-21-260.C7 – add new item to include “***Pulse oximeter***”

18VAC60-21-260.E2 – add “***pulse***” and “***oxygen saturation***” and then after “*administration*” “***shall be continuously monitored and recorded every five minutes.***”

Page 25

18VAC60-21-270.C1 – replace gray language with “***with hand-on simulated airway and mega code training***”

18VAC60-21-270.D1 – add “***licensed***” in front of “*outpatient surgery center*” and staff will verify with the Department of Health

Page 26

18VAC60-21-270.D (4th bullet) – written as “***A certified registered nurse anesthetist under medical direction and supervision of a dentist who meets the training requirements of 18VAC60-21-270(B)(1)***”

18VAC60-21-270.D (new 5th bullet) – new language written as “***A registered nurse upon his direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-270(B)(1)***”

18VAC60-21-270.E – add new item 15 written as “**Precordial or pretracheal stethoscope**”

18VAC60-21-270.G2 – add “**pulse**” and “**oxygen saturation**” and then after “**administration**” “**shall be continuously monitored and recorded every five minutes.**”

Page 27

18VAC60-21-270.H3 – staff will add new language to include driver requirement

18VAC60-21-280.A3 – add “**hand-on simulated airway and mega code training**” language

Page 28

18VAC60-21-280.C1 – add “**licensed**” in front of “**outpatient surgery center**”

18VAC60-21-280.C2c – add “**medical**” in front of “**direction**” and “**and supervision**” in front of “**of a dentist**”

18VAC60-21-280.D4 – delete “**oropharyngeal airway**”

Page 29

18VAC60-21-280.D16 – add new item to include “**Precordial or pretracheal stethoscope**”

18VAC60-21-280.H3 – add new item to include driver requirement

Page 31

18VAC60-21-310.A – add “**in writing to the executive director of the board**” after “**shall report**”

18VAC60-21-310.C – replace “§54.1-2400.2D” with “§54.1-2400.2G.”

Last sentence written as “**Information shall also be posted indicating the availability of un-adjudicated notices and of orders that have been vacated**”

Page 34

18VAC60-21-370.A – add “**the board shall conduct**” in front of “**a random audit**” and add “**which are**” in front of “**performed by a certificate holder**”

18VAC60-21-380 – delete “**pursuant to §54.1-2502 of the Code**”

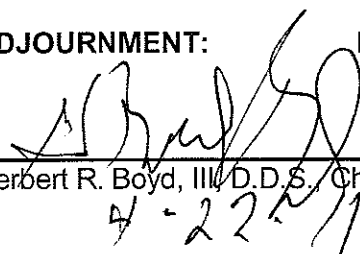
18VAC60-21-100- Practice of Dentistry – Dr. Boyd reviewed his draft for rewriting this section. It was agreed by consensus to defer action.

NEXT MEETING:

Staff will poll the Committee members for availability on April 22 or April 29 next meeting date. Dr. Boyd thanked all board members for their help and hoped that they will be available at the next meeting.

ADJOURNMENT:

Dr. Boyd adjourned the meeting at 5:31 p.m.


Herbert R. Boyd, III, D.D.S., Chair

Date


Sandra K. Reen, Executive Director

Date